

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No: 15-20382

Honorable Victoria A. Roberts

v.

PAUL NICOLETTI,

Defendant.

ORDER GRANTING GOVERNMENT’S RENEWED MOTION TO DISMISS
[ECF No. 205] AND DISMISSING WITHOUT PREJUDICE
DEFENDANT’S MOTION TO VACATE [ECF No. 195]

On February 1, 2021 – while his case was on direct appeal before the Sixth Circuit – Defendant Paul Nicoletti filed a *pro se* motion to vacate under 28 U.S.C. § 2255. [ECF No. 195]. On March 12, 2021, the government filed a motion to dismiss or defer Nicoletti’s motion to vacate.

On March 18, 2021, the Sixth Circuit issued an opinion affirming Nicoletti’s conviction, mooted the government’s motion to dismiss. The Sixth Circuit granted Nicoletti an extension to file a petition for rehearing *en banc*.

On April 14, 2021, the government filed a renewed motion to dismiss or defer Nicoletti’s motion to vacate. [ECF No. 205].

Because Nicoletti's direct appeal is pending his motion to vacate under § 2255 is premature. The Court **GRANTS** the government's renewed motion to dismiss and **DISMISSES WITHOUT PREJUDICE** Nicoletti's motion to vacate.

ORDERED.

S/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: April 29, 2021